

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

MICHAEL FRASIER, # 215880,) Civil Action No. 4:21-cv-0031-DCC-TER
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Plaintiff,)
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-vs-)
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DR. ALDEN,)
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Defendant.)
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ORDER

Plaintiff, who is proceeding pro se, brings this action pursuant to 42 U.S.C. § 1983. Presently before the court are Plaintiff's Motion to Compel (ECF No. 79) and Motion for Delay of Postage and Service (ECF No. 85). All pretrial proceedings in this case were referred to the undersigned pursuant to the provisions of 28 U.S.C. 636(b)(1)(A) and (B) and Local Rule 73.02 (B)(2)(d), DSC. In his motion to compel, Plaintiff seeks an order compelling Defendant to respond to 77 interrogatories attached to his motion and to produce "any and all grievances, complaints, memoranda, investigative files and all documents of mistreatment." However, Plaintiff did not previously serve discovery requests on Defendant prior to filing the present motion to compel. An order from the court compelling discovery is not proper until one party has first served discovery and the other party has failed to timely respond or to fully respond. See Fed.R.Civ.P. 37(a)(3). Further, Plaintiff's interrogatories exceed the maximum amount allowed under the Federal Rules of Civil Procedure. See Fed.R.Civ.P. 33(a)(1) ("Unless otherwise stipulated or ordered by the court, a party may serve on any other party no more than 25 written interrogatories, including all discrete subparts."). For these reasons, Plaintiff's Motion to Compel (ECF No. 79) is **DENIED**.

The relief Plaintiff seeks in his second motion, entitled "Motion for Delay of Postage and

Service/Quarantine Outbreak," is unclear. He states that he wants to make the court aware that he was unable to access the mailroom at Ridgeland Correctional Institution from July 22, 2022, until August 1, 2022, because of an outbreak of Covid, which delayed his ability to use the postal services. Attached to his motion is what appears to be a reply in support of his motion to compel. Thus, to the extent Plaintiff is asking to be allowed to file his reply out of time, the Motion (ECF No. 85) is **GRANTED**, and the Court has considered his Reply.

IT IS SO ORDERED.

s/Thomas E. Rogers, III
Thomas E. Rogers, III
United States Magistrate Judge

February 28, 2023
Florence, South Carolina